

JAMES C. HAGGARD

IBLA 81-529

Decided May 28, 1981

Appeal from a decision of the California State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer, CA 9400.

Affirmed.

1. Oil and Gas Leases: Applications: Filing -- Oil and Gas Leases: Lands Subject To

Pursuant to 43 CFR 3112.1-1, all lands which are not within a known geologic structure of a producing oil and gas field and are covered by canceled or relinquished leases, leases which terminated for nonpayment of rental or leases which expired by operation of law at the end of their primary or extended terms are subject to leasing only in accordance with the simultaneous filing system. The Bureau of Land Management has no discretion under the regulations to accept over-the-counter offers for such lands.

APPEARANCES: James C. Haggard, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

James C. Haggard has appealed the decision of the California State Office, Bureau of Land Management (BLM), dated March 12, 1981, rejecting noncompetitive over-the-counter oil and gas lease offer, CA 9400. The offer was rejected because the identified 35 acres in sec. 3, T. 3 N., R. 15 W., San Bernardino meridian, were previously included in an oil and gas lease which had terminated on November 11, 1971, and, under 43 CFR 3112, such lands are available for subsequent leasing only under the simultaneous filing system.

In his statement of reasons, appellant indicates that he has leased land adjoining the 35 acres in his offer and has had a detailed

geological study prepared for the entire area in anticipation of drilling. He argues that he wants to acquire a lease to the 35 acres to avoid problems that may arise if another lessee holds the land adjoining his current leases and either he or that lessee drilled and found oil.

[1] The applicable regulations found in 43 CFR 1/ read as follows:
 § 3101.1-1 Availability of lands.

(a) All public domain lands subject to disposition under the Act may be leased by the Secretary of the Interior. Lands within a known geologic structure of a producing oil or gas field shall be leased only by competitive bidding to the highest responsible qualified bidder. Other public domain lands shall be leased only noncompetitively to the first qualified applicant.

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§ 3108.2-1 Automatic terminations and reinstatement.

The termination of the lease for failure to pay the rental must be noted on the official records of the proper office. Upon such notation the lands included in such lease will become subject to the filing of new lease offers only as provided for in Subpart 3112.

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Subpart 3112 - Simultaneous Filings

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§ 3112.1-1 Availability of lands.

All lands which are not within a known geological structure of a producing oil or gas field and are covered by canceled or relinquished leases, leases which automatically terminate for non-payment of rental pursuant to 30 U.S.C. 188, or leases which expire by operation of law at the end of their primary or extended terms are subject to leasing only in accordance with this subpart. Other lands which are not within a known geological structure of a producing oil or gas field may be leased in accordance with this subpart. [Emphasis added.]

1/ Revisions to the oil and gas leasing regulations, effective June 16, 1980, may be found at 45 FR 35156 (May 23, 1980).

The language of the regulations is clear. Under 43 CFR 3112.1-1, lands which are not within the known geologic structure of a producing oil and gas field and are covered by relinquished, terminated, or expired leases are subject to further leasing only under the simultaneous system. BLM has properly rejected appellant's offers.

We note as well that the lease form submitted by appellant indicates that he remitted a fee of \$27.50 to cover the \$10 filing fee and first year's rental on the 35 acres. The annual rental on noncompetitive leases for lands not within a known geologic structure of a producing oil and gas field is \$1 per acre. 43 CFR 3103.3-2(a). Therefore appellant's rental payment was deficient by more than 10 percent and his offer could have been rejected for that reason as well. 43 CFR 3103.3-1. See George S. Swan, 39 IBLA 47 (1979).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Anne Poindexter Lewis
Administrative Judge

